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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/549,130	04/13/2000	Drago Borosic	98045 P US	7530

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/549,130

Applicant(s)
Borosic

Examiner
Clark F. Dexter

Art Unit
3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) 7 and 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☒ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group I (claims 1-6 and 8) in the response filed October 9, 2001 (paper no. 6) is acknowledged. The traversal is on the ground(s) that "the groups of claims appear not to be independent and distinct." This is not found persuasive because it is the Examiner's position that the groups are considered as being subcombinations useable together and thus are independent and distinct at least for the reasons set forth in the restriction requirement. However, if applicant believes that some of the groups are not directed to distinct inventions, applicant may identify which groups are not patentably distinct and claims directed to these groups will be examined together. It is noted, however, that such a statement may be used as an admission of obviousness and may be used in a rejection under 35 USC 103 (a) to reject all of the identified groups of inventions over prior art that meets one of the groups.

The requirement is still deemed proper and is therefore made FINAL.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on October 13, 1997. It is noted, however, that a certified copy of the German application has not been received.

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Information Disclosure Statement

3. The information disclosure statement filed April 13, 2000 (paper no. 4) has been received and the references listed thereon have been considered.


Oath/Declaration

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been accurately identified. See MPEP § 601.01(a). It is noted that the box next to "is attached hereto" is checked, however, the declaration was filed after the subject specification. ✓

Drawings

5. The drawings are objected to because in Figure 3, numeral 13^{'''} is misleading since it indicates the groove which is part of the shaft, not the stop structure, and it seems that it should be changed to --5'-- or the like. Appropriate correction is required. 

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Specification

6. The disclosure is objected to because of the following informalities:

On page 5, line 22, it seems that "a rotatable" should read --the rotatable-- since the mounting has already been introduced; also in line 22, it seems that "which is" should be deleted for clarity; also in line 22, numeral 12 is not described and should be inserted after "numbering" or the like; in line 23, "a knife" should read --the knife-- since the knife has already been introduced.

On page 6, line 4, it seems that "a" should be deleted for clarity, and "A" should be changed to --The-- since the positioning element has already been introduced; in line 8, "groove 13" is confusing since the groove is part of the shaft 5, not the stop structure, and it seems that it should be changed to --5'-- or the like; in line 15, "shaft 13" is inaccurate since it is describing the wrong shaft, and it seems that it should be changed to --5'-- or the like.

On page 7, line 2, the recitation "cutter edge of the cutting edge of the knife" is awkwardly worded and confusing, and it seems that "cutter edge of the" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claims 1-6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with vague and indefinite language and should be carefully reviewed. The following are examples of many of the occurrences of such language.

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In claim 1, line 2, "said tissue section" lacks positive antecedent basis, and it seems that "section" should be plural; in line 7, the recitation "constructed for reception of said knife" is vague and indefinite as to how the receiver is "constructed", and further is vague and indefinite since structural cooperation is not positively provided between the knife and the receiver; in line 8, "a shaft" lacks structural cooperation, particularly with respect to the knife.

In claim 2, lines 1-2, structural cooperation is not positively provided for the depression, particularly with respect to the knife, and it is suggested to change "for reception of said knife and" to --in which said knife is received-- or the like.

In claim 3, lines 1-2, "a rotatable mounting" lacks positive structural cooperation, particularly with respect to the knife.

In claim 4, lines 1-2, "a positioning element" lacks positive structural cooperation, particularly with respect to the knife.

In claim 5, line 1, "a detent" lacks positive structural cooperation, particularly with respect to the rotatable mounting.

In claim 6, line 2, the recitation "arranged such that" is vague and indefinite as to how the surface is "arranged", and further "positionable" renders the limitation vague and indefinite as to the relationship between the surface and the knife, and it is suggested to change "arranged such that the knife is positionable" to --, wherein the knife is positioned-- or the like.

In claim 8, line 1, "a releasable stop" lacks positive structural cooperation, particularly with respect to the knife.

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Prior Art

8. Further consideration of the claimed invention with respect to the prior art will be given upon clarification of the claimed invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.


Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
December 17, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.